REMARKS

The above-identified application has been carefully reviewed in light of the Examiner's communication mailed April 18, 2003, which included a final rejection of all claims presented. Applicant submits that the amendments and remarks included herein show the present claims to be allowable or, if necessary, in better condition for appeal. Therefore, applicant respectfully requests that this RESPONSE UNDER RULE 116 be entered and considered on its merits.

The specification has been amended, as suggested by the Examiner, to provide a written description that the IOL comprises a single, unitary multifocal lens body, and that the lens body includes no cylinder correction. As acknowledged by the Examiner, these amendments are supported by the drawings included in the above-identified application.

Claims 49, 50 and 57 to 60 have been amended to delete reference to "a substantially identical intraocular lens" as impliedly suggested by the Examiner.

In view of the above, applicant submits that the present claims, and in particular claims 49, 50 and 57 to 64, satisfy the requirements of 35 USC 112, second paragraph. Therefore, applicant respectfully requests that the rejection based on this statutory provision be withdrawn.

Claims 46, 48 to 50 and 57 to 60 have been rejected under 35 U.S.C. 102(e) as being anticipated by Menezes et al. Claims 47, 52 to 56 and 62 to 64 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Menezes et al in view of Portney. Applicant traverses each of these rejections.

To reiterate, the intraocular lens of independent claim 46 comprises a single, unitary multifocal lens body sized and adapted for placement in a mammalian eye including a natural lens. The

lens body has a baseline optical power and a plurality of annular regions each having an optical add power, preferably a different optical add power. The lens body has a first optical add power for near vision. The first optical add power has a magnitude which, together with the natural accommodative capability of a natural lens, provides enhanced vision. In addition, a second optical add power intermediate between the first optical add power and the baseline optical power is provided. In one useful embodiment (claim 49), each of the different optical add powers of the plurality of annular regions of the lens body is reduced relative to the corresponding optical power of an identical intraocular lens adapted for placement in an identical eye in which the natural lens has been removed.

The intraocular lens of independent claim 57 comprises a single, unitary multifocal lens body sized and adapted for placement in a mammalian eye including a natural lens having a natural accommodative capability. The lens body has a plurality of regions each having a different optical power including a region having a baseline optical power, a region having a maximum optical add power and a region having an additional optical add power intermediate between the maximum optical add power and a baseline optical power. The maximum optical add power has a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens, enhanced vision. Each of the maximum optical add power and the additional optical add power is reduced by at least about 10% relative to the corresponding optical add power of an identical intraocular lens adapted for placement in an identical eye in which the natural lens has been removed.

In each of the lenses recited in the present claims optical add powers are provided which are reduced relative to the corresponding optical add powers of identical lenses adapted for

placement in eyes including no natural lenses and at least two different optical add powers are provided. Lenses with such a combination of features take advantage of the accommodative capability of the natural lens in the eye while providing enhanced vision, for example, over a range of far, intermediate and near distances.

Menezes et al discloses concentric lens designs for astigmatic presbyopes which comprise at least one surface which has a circular central portion and a plurality of concentric annular rings with three separate optical powers: a basic distance power; a near add power; and a cylinder correction power. Menezes et al discloses, at column 3, lines 52 to 63, that some patients may not require the full cylindrical and add powers of the lenses and that, for these cases, the cylindrical and near powers can be made a fraction, preferably 50%, of the full cylinder or add power. Immediately thereafter, Menezes et al discloses, at column 3, lines 64 to 65, that alternately the near add power could be a non-constant function across the concentric annular rings. Thus, Menezes et al teaches the near add power can be reduced or the near add power can be a non-constant function.

Menezes et al does not disclose, teach or suggest the present invention. For example, Menezes does not disclose, teach or even suggest a single, unitary lens body having a baseline optical power, a first optical add power which, together with the accommodative capability of the natural lens, provides enhanced vision (claim 46) or a maximum optical add power which is reduced by at least about 10% relative to the corresponding optical power of an identical intraocular lens for use in an identical eye in which the natural lens has been removed (claim 57) and a second or additional optical add power intermediate between the first or maximum optical add power and the baseline optical power, as

recited in the present claims. Menezes et al does not even suggest these two features, i.e., reduced add power and non-constant add power, in any of the lenses disclosed. To the contrary, Menezes et al teaches lenses with a reduced add power or with a non-constant near add power. The fact that Menezes et al teaches lenses with only one of these features, actually teaches away from the present invention and claims which recite lenses having both reduced add power and different add powers.

In view of the above, applicant submits that all the present claims, that is claims 46 to 64 are not anticipated by, and are unobvious from and patentable over Menezes et al under 35 U.S.C. 102(e) and 103(a).

Portney does not disclose, teach or suggest the present invention. For example, Portney does not disclose, teach or even suggest a single, unitary lens body having a baseline optical power, a first optical add power for near vision or a maximum optical add power, and a second or additional optical add power intermediate between the first or maximum optical add power and the baseline optical power, as recited in the present claims. Portney discloses a system including two separate lens bodies attached together. Thus, Portney actually teaches away from a single, unitary lens body, as recited in the present claims.

As noted above, both Menezes et al and Portney are substantially deficient with regard to the present claims. Neither of these references even suggests an intraocular lens comprising a single, unitary lens body having a baseline optical power, a first or maximum optical add power, and a second or additional optical add power intermediate between the first or maximum optical add power and the baseline optical power, as recited in the present claims.

Both Menezes et al and Portney actually teach away from the

present invention. There is no motivation or incentive to one of ordinary skill in the art to combine the teachings of Menezes et al and Portney, let alone to do so and obtain the present invention.

In view of the above, applicant submits that all of the present claims, that is claims 46 to 64, are unobvious from and patentable over Menezes et al in view of Portney under 35 U.S.C. 103(a).

Claims 46 to 64 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40 to 58, 63 to 68, 70 to 75 and 77 to 78 of co-pending application No. 09/302,977.

Submitted herewith is a Terminal Disclaimer, and required fee, disclaiming the terminal portion of any patent issuing from the above-identified application which extends beyond the term of the patent issuing from application Serial No. 09/302,977.

In view of the above, applicant requests that the obviousness-type double patenting rejection be withdrawn.

Each of the present dependent claims is separately patentable over the prior art. For example, none of the prior art, taken singly or in any combination, disclose, teach or even suggest the present intraocular lenses including the additional feature or features recited in any of the present dependent claims. Therefore applicant submits that each of the present claims is separately patentable over the prior art. Applicant submits that each of the present claims is separately patentable over the prior art.

In conclusion, applicant submits that the present claims are not anticipated by and are unobvious from and patentable over the prior art under 35 U.S.C. 102 and 103. Therefore, applicant submits that claims 46 to 64 are allowable and respectfully

requests the Examiner to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call (collect) applicant's attorney at the telephone number given below.

Respectfully submitted,

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